

## REMARKS

The Specification has been amended to use the proper format for the registered trademark ROUNDUP and to provide clarity. Applicant has amended paragraphs [0122] and [0144] of the Specification to correct typographical errors. The Specification has been amended to include the ATCC Accession number. A copy of the ATCC deposit receipt is attached. Applicant has amended claims 1, 3-6, 10, 12, 14-15, 18, and 20-29. Claims 8 and 9 have been canceled. Claim 30 has been added. These changes have been made to place the claims in better form for examination and to further obviate the 35 U.S.C. §§112, 102(b) and 103(a) rejections as set forth in the Office Action dated June 14, 2006. It is believed that none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections are respectfully requested.

The Examiner has objected to claims 1, 6, 22, 23, and 28 for containing a blank line where the ATCC accession number should be. Applicant has added the ATCC accession number to claims 1, 6, 22, 23 and 28. Withdrawal of this objection is respectfully requested.

The Examiner has rejected claims 1-29 under U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner has rejected claims 1, 6, 22, 23, 24, 28, and 29 for being indefinite for the recitation "SG1431RR". Applicant has added the ATCC Accession Number to claims 1, 6, 22, 23, and 28. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 8 and 9 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In a phone conversation with Applicant's attorney, Kenyon Schuett, on August 29, 2006, the Examiner stated that he inadvertently referred to claims 9 and 10 in his rejection when he intended to refer to claims 8 and 9. Applicant has canceled claims 8 and 9. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-29 under §112, first paragraph, as failing to comply with the enablement requirement. Applicant has amended claims 1, 6, 22, 23, and 28 to include the ATCC Accession Number. Additionally, the undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit was performed; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

Accordingly, withdrawal of this rejection is respectfully requested.

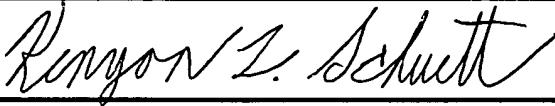
The Examiner has rejected claims 1-13, 15, 16, 18, 19, 22, 23, 24, and 27 under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Eby (U.S. Patent No. 6187998, issued February 13, 2001). In a phone conversation with Applicant's attorney, Kenyon Schuett, on August 29, 2006, the Examiner stated that he inadvertently referred to "Rhodes" when he intended to refer to "Eby" in his rejection. Applicant has submitted with this response, a response to a Request for Information under 37 C.F.R. §1.105 in which additional information concerning the parents of soybean cultivar SG1431RR and the methods and steps used to produce soybean cultivar SG1431RR are included as a Trade Secret. Soybean cultivar SG1431RR has different parents than soybean cultivar 61584642 from U.S. Patent No. 6187998. Soybean cultivar 61584642 was developed from the cross of 91133(2) X 10305-01RR F<sub>2</sub> derived lines. Additionally, Applicant points out that there is a significant difference in plant height (soybean cultivar SG1431RR is 4.8% taller than soybean cultivar 61584642), protein percent (soybean cultivar SG1431RR contains 1.9% less protein than soybean cultivar

61584642) and oil percent (soybean cultivar SG1431RR contains 4.6% less oil than soybean cultivar 61584642). In addition, the yield of soybean cultivar SG1431RR (40.5 bu/ac) is 11.85% to 16.5% lower than the yield of soybean cultivar 61584642 (45.3 bu/ac to 47.2 bu/ac) all of which were taken in Iowa. Therefore, soybean cultivar SG1431RR of the instant invention is novel and nonobvious over soybean cultivar 61584642 of U.S. Patent No. 6187998. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-29 under 35 U.S.C. §103(a) as being unpatentable over Eby (U.S. Patent No. 61584642, issued February 13, 2001) in combination with Schultze (U.S. Patent No. 6909035, issued June 21, 2005, filed April 7, 2003). In a phone conversation with Applicant's attorney, Kenyon Schuett, on August 29, 2006, the Examiner stated that he inadvertently stated the incorrect Patent number when referencing the Eby patent. The Examiner intended to state U.S. Patent No. 6187998 instead of 61584642. Applicant has submitted with this response, a response to a Request for Information under 37 C.F.R. §1.105 in which additional information concerning the parents of soybean cultivar SG1431RR and the methods and steps used to produce soybean cultivar SG1431RR are included as a Trade Secret. Soybean cultivar SG1431RR has different parents compared to the parents of soybean cultivar 61584642 from U.S. Patent No. 6187998. Soybean cultivar 61584642 was developed from the cross of 91133(2) X 10305-01RR F<sub>2</sub> derived lines. Additionally, Applicant points out that there is a significant difference in plant height (soybean cultivar SG1431RR is 4.8% taller than soybean cultivar 61584642), protein percent (soybean cultivar SG1431RR contains 1.9% less protein than soybean cultivar 61584642) and oil percent (soybean cultivar SG1431RR contains 4.6% less oil than soybean cultivar 61584642). In addition, the yield of soybean cultivar SG1431RR (40.5 bu/ac) is 11.85% to 16.5% lower than the yield of soybean cultivar 61584642 (45.3 bu/ac to 47.2 bu/ac) all of which were taken in Iowa. Therefore, soybean cultivar SG1431RR of the instant invention is nonobvious over soybean cultivar 61584642 of U.S. Patent No. 6187998 and therefore is patentable over U.S. Patent No. 6187998 in combination with U.S. Patent No. 6909035. Withdrawal of this rejection is respectfully requested.

Applicant has submitted in a separate document the Request for Information under 37 C.F.R §1.105, in which the information is a Trade Secret.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§112, 102(b), and 103(a). Reconsideration of this application and an early notice of allowance are respectfully requested.

<b>SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED</b>					
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